

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

RICHARD G. BREITHAUPT,

Plaintiff,

No. 6:16-cv-00411-HZ

v.

ORDER

COMMISSIONER, SOCIAL  
SECURITY ADMINISTRATION,

Defendant.

HERNÁNDEZ, District Judge:

Plaintiff Richard G. Breithaupt brought this action seeking review of the Commissioner's final decision to deny Disability Insurance Benefits. On November 1, 2016, pursuant to the parties' stipulated motion, the Court reversed the Commissioner's decision and ordered that the case be remanded for additional proceedings. Judgment was entered on January 19, 2017.

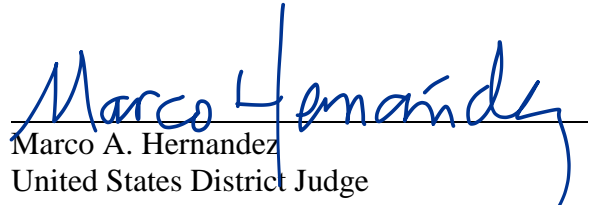
Plaintiff now seeks an award of fees pursuant to 42 U.S.C. § 406(b). Pl. Mot., ECF 20. Defendant has no objection to the request. *Id.* The Court has reviewed the record in the case, the motion, and the supporting materials including the award of benefits, the fee agreement with

counsel, and the recitation of counsel's hours and services. Applying the standards set by *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002), the Court finds the requested fees reasonable.

The Court grants the motion [20] and awards Plaintiff's counsel \$8,406.00 in attorney's fees under 42 U.S.C. § 406(b). Previously, the Court awarded Plaintiff attorney's fees in the amount of \$6,435.51 under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. When issuing the section 406(b) check for payment to Plaintiff's attorney, the Commissioner is directed to subtract the amount previously awarded under EAJA and send Plaintiff's attorney the balance of \$1,970.49 less any applicable processing fees as allowed by statute. Any amount withheld after all administrative and court attorney's fees are paid should be released to the claimant.

IT IS SO ORDERED.

Dated this 22 day of July, 2019

  
Marco A. Hernandez  
United States District Judge